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Letter dated 18 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/390).

The Counter-Terrorism Committee has received the attached supplementary report from Spain, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Spanish]

Note verbale dated 26 June 2002 from the Permanent Mission of Spain to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Spain to the United Nations presents its respects to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001), and has the honour to transmit the additional information requested by the Committee in the context of resolution 1373 (2001) (see enclosure). The request was made following receipt of the report submitted by Spain.

The Permanent Mission of Spain takes this opportunity to convey to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism the renewed assurances of its highest consideration.

Enclosure

Reply to the letter from the Counter-Terrorism Committee requesting additional information concerning the report of Spain submitted pursuant to paragraph 6 of resolution 1373 (2001)

Subparagraph 1 (d)

Could Spain please describe how the financial tracking system ensures that funds received by charitable and similar associations are not diverted from the associations' stated purposes to terrorist activities.

The entities that make up the financial sector (banks, savings banks, credit cooperatives, insurance entities, brokerage services) are required to inform the Executive Service of the Committee for the Prevention of Money Laundering and Currency Offences of any operation that might be related to criminal activities of armed bands, organizations or terrorist groups (Act 19/1983, article 3, of 28 December). Naturally this includes operations carried out through financial entities on behalf of charitable associations.

In addition, charitable associations that are foundations are subject to the Public Administrations Protectorate which may, if necessary, summon the foundation to appear in court (Act 30/1994, article 34, of 24 November).

Subparagraph 2 (e)

What is the extent of the competence of your courts to deal with terrorist acts or preparations for terrorist acts that occur outside your territory.

Article 23, paragraph 4, of the Organic Law of the judiciary branch states that Spanish courts are competent to deal with offences that are committed outside Spain by Spanish or foreign nationals and that, under the Spanish Penal Code, can be characterized as terrorism.

Subparagraph 2 (f)

Please report progress with the ratification of the UN Convention for the Suppression of the Financing of Terrorism and with the establishment of the terrorism financing oversight committee mentioned in the report.

The International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999) was signed by Spain in New York on 8 January 2001. Spain deposited the instrument of ratification with the Secretary-General of the United Nations on 9 May 2002 and the Convention entered into force for Spain that same day and was published in the Boletín Oficial del Estado on 23 May 2002.

The bill for the Prevention and Blocking of the Financing of Terrorism which provides for the establishment of a committee to monitor activities relating to the financing of terrorism was submitted by the Government to Parliament on 22 March 2002 and is currently before Parliament. The deadline for submitting amendments was 30 April 2002; the amendments were published on 9 May.

Subparagraph 3 (c)

Please list the relevant bilateral agreements entered into by Spain.

Agreements in force

- Agreement between the Government of the Kingdom of Spain and the Government of the Republic of Bulgaria concerning cooperation in the fight against crime (came into force on 9 August 1999).
- Agreement between Spain and the Slovak Republic concerning cooperation in respect of the fight against organized crime (came into force on 29 January 2000).
- Agreement between Spain and Italy concerning cooperation in the fight against terrorism and organized crime (entered into force on 12 May 1987). It has been superseded in part by the European Convention on Extradition.
- Agreement between the Government of the Kingdom of Spain and the Government of the Russian Federation concerning cooperation in the fight against crime (came into force on 9 June 2000).
- Agreement between the Government of the Kingdom of Spain and the Government of the People's Republic of China concerning cooperation in the fight against organized crime (came into force on 6 June 2002).

The agreements signed by Spain in this area with Poland and Ukraine will come into force once the necessary internal procedures have been completed.

The agreement between the Ministries of the Interior of Spain and Hungary concerning cooperation in the fight against terrorism, illicit drug trafficking and organized crime of 2 March 1992 has the status of a political agreement.

Subparagraph 3 (e)

Have the crimes specified in the relevant international conventions been included as extraditable offences in the bilateral treaties which Spain has concluded with other countries as provided for in a number of the relevant international conventions and protocols relating to terrorism?

Regarding crimes which may give rise to extradition in Spain, it is necessary, first, to refer to the Act of 21 March 1985 that regulates passive extradition, article 2 of which states that "extradition may be granted for offences that are also characterized as offences under Spanish law and for which Spanish laws and those of the requesting Party impose a penalty of deprivation of liberty or detention order for not less than four months".

With regard to the relationship with the countries that are signatories to the European Convention on Extradition of 13 December 1957, it is pointed out that extradition shall be granted in respect of offences that are punishable, under the laws of the requesting Party and those of the requested Party, by deprivation of liberty or detention order for a period of at least one year or by a more severe penalty. Where a conviction and prison sentence have occurred or a detention order has been made in the territory of the requesting Party, the punishment awarded must have been for a period of at least four months.

Many bilateral treaties on extradition provide for similar measures.

Given that the agreements concerning cooperation in the fight against international organized crime cover a series of serious offences, including international terrorist acts, the penalties for which are greater than the above-mentioned penalties of deprivation of liberty, the offences they cover are extraditable offences.

Special mention should be made of the treaties between Spain and Italy and between Spain and the United Kingdom concerning accelerated surrender procedures (which, under the common legal space, would replace extradition) for offences punishable by a penalty of deprivation of liberty for at least 12 months (which presupposes, as has been stated, the inclusion of terrorist offences.

Finally, as the Committee is aware, the framework decision of the European Council concerning a European arrest warrant and surrender procedures between member States, provides for the surrender of any person sought for an offence, including terrorism, under a European arrest warrant and does not require that the offence be characterized as such under the laws of both States.

Other matters

Could Spain please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.

Ministry of the Interior

Organic Law 2/86 of 13 March, concerning security forces and bodies, assigns to the Spanish Police and the Civil Guard their respective areas of competence and gives each of them specific tasks; it assigns specific competence for immigration control to the Spanish Police, and competence for customs, taxation and financial control and for action to prevent and prosecute smuggling, drug trafficking and fraud, among other offences, to the Civil Guard.

Royal Decree 1449/2000 of 28 July, amending and extending the basic organic structure of the Ministry of the Interior, in its articles 3 and 4, specifies the structure of the Directorate-General of the Police and of the Directorate-General of the Civil Guard. The text of the Royal Decree is set forth in the annex hereto.*

In accordance with the provisions of the above-mentioned Royal Decree 1449/2000 and of the Ministry of the Interior Order of 10 September 2001, extending the organic structure and functions of the central and peripheral services of the Directorate-General of the Police, there is a Subdirectorate-General for Operations which reports to the Director-General, and to which the Immigration and Documentation Commission and the Information Commission report.

The administrative machinery used by the police to control immigration, in accordance with the laws, regulations and other documents that are seen as contributing to compliance with resolution 1373 (2001) on the part of the Spanish Police, is assigned to the Immigration and Documentation Commission and to the Information Commission; the Information Commission's competences, functions and structure are brought to bear in the endeavour to combat terrorism, since it is responsible for identifying persons who may fall within the purview of resolution

* The annex is on file with the Secretariat and is available for consultation.

1373 (2001), by means of communications, as appropriate, to the information technology services of the Directorate-General of the Police.

The Immigration and Documentation Commission has been given responsibility for controlling the entry of Spanish and foreign nationals into Spanish territory and their departure therefrom, as well as for the functions set forth in the legislation concerning foreigners, refugees and asylum-seekers, expulsion, and emigration and immigration (Organic Laws 4/2000 and 8/2000, and Royal Decree 864/2001).

To achieve the goals in question, and in view of the abolition of borders inside the Schengen area, border controls are carried out at the external borders by means of filters set up for that purpose at border stations, for the inspection of papers and to ascertain that other requirements laid down by current legislation for entry into a given country are met. These border stations have the necessary technical means for detecting manipulation of and tampering with papers.

Operational deployment of mobile squads has also proved particularly effective at internal borders, and also in connection with the monitoring of recreational and fishing ports.

A major effort is also being made to combat networks that lure individuals with the aim of bringing them into Spain on an irregular basis, or via Spain into the rest of Europe. That is what the central unit to combat immigration networks and falsification of papers (UCRIF) is endeavouring to achieve, by coordinating cooperation between the Spanish Police and international police organizations (Europol and Interpol); it also supervises the activities of local units throughout Spain.

Lastly, the functions, competences and structures of the Information Commission cannot be disclosed.

With respect to the State functions relating to customs, taxation and financial supervision entrusted to the Civil Guard, under Organic Law 2/86 of 13 March, concerning security forces and bodies, reference must also be made to Royal Decree 1449/2000 of 28 July, extending the basic organic structure of the Ministry of the Interior, article 4 of which extends the structure of the Directorate-General of the Civil Guard; the Directorate-General has three subdirectorates-general, one being the subdirectorate-general for operations, which reports to the taxation and border authorities, which perform the above-mentioned functions.

Ministry of Economic Affairs

The conduct and promotion of the policy of preventing money-laundering (which includes criminal activities connected with armed bands or organizations, or terrorist groups) is the responsibility of the Committee for the Prevention of Money Laundering and Currency Offences. The Committee is a collegiate body, chaired by the Secretary of State for Economic Affairs, whose membership is made up of representatives of a range of bodies and institutions (for example, ministries, the Attorney-General's Office and the Autonomous Communities). In performing its functions, the Committee is supported by two bodies:

1. The Executive Service, which falls within the purview of the Bank of Spain and has a unit known as the National Police Brigade for the Investigation of Currency Offences (BIDM);

2. The Secretariat, which is a component of the Ministry for Economic Affairs, the Spanish authority responsible for ensuring compliance with European Community regulations concerning the freezing of assets connected with terrorism (regulation EC 2580/2001 of 27 December 2001, and regulation EC 881/2002 of 27 May 2002).

The future committee to monitor activities relating to the financing of terrorism will also be a collegiate body chaired by the Secretary of State for Security, whose members will be representatives of the Attorney-General's Office and of the Ministries of Justice and of the Interior, and of the Ministry for Economic Affairs, appointed by the relevant department heads.